



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

6
2 1/2
5

Security Classification: UNCLASSIFIED

No. 11 American Embassy, Quito, January 18, 1949

Reference: - - Enclosures: 2

Via: Air Mail

Subject: New Ecuadoran Law Governing Fishing in Ecuadoran Waters and the Establishment of Fish Processing Plants in Ecuador.

Prepared by:

J. W. Wilson
Third Secretary of Embassy

Rec'd
Jan 25

DISTRIBUTION
(Dept. Use Only)

ITP
FR
ARA
TRC ENC
OLI
L ENC
COM ENC
FISH & WILD LIFE
ENC
TAR
MC ENC

With its publications in Registro Oficial No. 101, dated January 4, 1949, the decree passed by the 1948 session of the Ecuadoran Congress concerning fishing in Ecuadoran territorial and insular waters and the establishment of fish processing plants in Ecuador become effective. Five copies of Registro Oficial No. 101, containing the Spanish text of the law, together with an English translation, are attached as enclosures to this report.

The new decree does not revoke the existing laws and regulations governing fishing in Ecuadoran waters,^{1/} but rather confirms certain regulations about which there was considerable discussion and adds to them basic regulations to govern the signing of contracts with fishing and fish processing enterprises. Before the draft of the present decree was presented to

Congress

1/ See Embassy despatch no. 4932, February 1, 1947, "Codification of Ecuadoran-Tuna Fishing Regulations"; Embassy report no. 48, May 29, 1947, "Executive Decree Authorizes Use of Mother Ships in Fishing in Ecuadoran Waters"; Embassy report no. 52, June 13, 1947, "Publication of Corrected Decree Concerning Mother Ships Fishing in Ecuadoran Waters"; and Embassy report no. 74, July 30, 1948, "Ecuadoran Decree Revokes Prohibition on Use of Nets in Tuna Fishing and Modifies Fishing Permit Fees."

VITAL STORAGE

UNCLASSIFIED

INFORMATION COPY

Do not return to DC. This copy is for divisional files or other

UNCLASSIFIED

Report No. 11, January 18, 1949. American Embassy, Quito

- 2 -

Congress and during the time it was under discussion in that body, Ecuador's policy with regard to fishing in its waters was the subject of bitter controversy between two groups of Ecuadoran private citizens and officials who held opposite viewpoints on the subject of fishing with nets. The part played in this controversy by American fishing interests holding the same opposing views was fully reported by the Embassy in numerous despatches, airmgrams, and telegrams as events occurred, and it is not now thought necessary to re-view these developments. Suffice it to say that the text of the decree, as passed by Congress and as finally approved by the President of the Republic, is a compromise between the positions of the opposing groups, and represents, so the Embassy is informed by sources close to the President, more or less the text desired by the President. However, in arriving at a compromise, the Congress freely amended the originally proposed text, with the result that portions of the completed law are garbled and inconsistent, if not unintelligible.

Article 1 of the decree confirms the policy of permitting both bait and net fishing, specifically mentioning "purse seiners" and "mother ships," and provides that the product of the fishing may be disposed of freely. However, the first part of this article is modified by the second paragraph of Article 3, to the effect that, after two years' trial, the Executive may prohibit partially or completely either system, if he finds it destructive of the national fishing reserve, and the second part is subject to the requirement set forth in Article 4 that the Executive is obliged to issue a regulation for the progressive establishment of a fish processing industry in the country, requiring, at the end of four years, that all fish caught in Ecuadoran waters be processed in Ecuador.

While Article 4 is quite clear as it stands, it is in conflict with Article 7 of the decree, which seems to grant to exclusively fishing enterprises (as distinguished from canning or processing enterprises) a period of two years' grace, counted from the initiation of their activities, before they have to submit to the requirement that the product of their fishing be processed in Ecuador, and furthermore introduces the provision that the Government shall determine whether all or part of the fish caught must be processed in Ecuador after consideration of the needs of the national industry. It appears impossible to reconcile this last provision with Article 4. It is the opinion of a Quito attorney who drew up the original draft of the projected decree that the President will issue an implementing regulation to clarify the law and will use the discretionary authority granted the Government in Article 7 to modify the apparently rigid obligation of Article 4.

Article 5,

UNCLASSIFIED

INFORMATION COPY

Do not return to DC. This copy is for divisional files or other disposition in accordance with security regulations

UNCLASSIFIED

Report No. 11, January 18, 1949, American Embassy, Quito

- 3 -

Article 5, which grants certain tax exemptions to new processing industries, is garbled at the end in such a way as to be unintelligible. This garble is thought to be the result of the omission of two lines of the original draft which pertained to an exemption from income tax on profits invested in the expansion of the industry. Whether the Executive will choose to correct this garble by the issuance of an emergency decree remains to be seen.

Other sections of the decree establish a new validity period for fishing licenses, charge the Ecuadoran consular authorities with the enforcement of the licensing requirements, provide for the distribution of the proceeds from fishing taxes, grant the Executive authority to prohibit factory ships, and make him responsible for carrying out a strict watch over the country's waters to safeguard the national interest therein.

While this decree does definitely establish a new policy of the Ecuadoran Government with regard to fishing in its territorial and insular waters, - that of requiring the processing in Ecuador of fish caught in Ecuadoran waters - the inconsistencies in the text of the decree make it impossible at present to state clearly the effect of the new policy on American fishing interests. Only interpretative regulations or actual application of the decree will give the answers to the questions arising from the confused wording.

Approved by:

Franklin Conklin 3rd,
Commercial Attaché.

J. W. Wilson,
First Secretary of Embassy.

Enclosures:

1. Translation of Registro Oficial No. 101, Jan. 4, 1949.
2. Registro Oficial No. 101.

File: 522.8

JWWilson: Reporting Officer

JANieto: Reporting Clerk

MEHogan: Clerk

Original parchment to Department;

Copy to Consulate General, Guayaquil.

INFORMATION COPY

Do not return to DC. This copy is for divisional files or other

UNCLASSIFIED

Encl. No. 1, Jan. 18, 1949, American Embassy, Quito

- 1 -

TRANSLATION

The Congress of the Republic of Ecuador

Considering:

That it is in the interest of the country to establish conditions on general bases which, while regulating fishing in Ecuadoran territorial and insular seas, will at the same time assure stability and equality for fishing enterprises and in this way attract a greater competition of the same, to the benefit of the National Treasury;

That the results of the experience with freedom of fishing for the two universally used systems - bait and nets (also called Purse Seiners), working alone and with mother ships as permitted in the Regulation issued by the Executive Power by Decree No. 1206-A of July 2, 1948 - denote a considerable increase in fiscal receipts,

Decrees:

Art. 1--Freedom is granted to fish in Ecuadoran territorial and insular waters by means of the two systems, called "bait" and "net" (the latter also known by the name of Purse Seiners) working alone and with mother ships in conformance with the provisions of this Decree and the existing regulation contained in Executive Decree No. 1206-A, of July 2, 1948, and to dispose freely of the product of that fishing on which taxes shall have been paid, without prejudice to the provisions of Article 4 of this Decree with respect to the obligation of processing the product of the country.

Art. 2--Licenses shall be considered upon the prior fulfillment of the formalities prescribed in the Regulation issued with Decree No. 1206-A, of July 2, 1948, and, shall include the right, for the fishing vessels of the two systems, to fish for a period of ninety days, and, for mother ships, until they can fill the tonnage capacity of their respective holds once on each trip, which shall be rigorously controlled and verified by the Ecuadoran consular authorities and functionaries who shall look after this matter without stint of their time, these officials being answerable for a serious fault in case of negligence.

Art. 3--Should the vessels be disabled for fishing, through damage to the nets or other fishing gear or to the vessels themselves, they shall only have right to the renewal of the license upon satisfactory proof of these damages to the Ecuadoran authorities and functionaries.

The Executive

INFORMATION COPY

UNCLASSIFIED

Do not return to DC. This copy is for divisional files or other disposition in accordance with security regulations

UNCLASSIFIED

Encl. No. 1, Jan. 18, 1949, American Embassy, Quito

- 2 -

The Executive Power, after two years' trial of the systems to which Article 1 refers, is empowered, through the Ministry of Economy and with a resolution of the National Economic Council, to prohibit partially or completely, whatever system of fishing may be shown by technical evidence, as being destructive of national fishing reserve.

Art. 4--The Executive Power shall incorporate in its regulations, subject strictly to the general provisions of this Decree, dispositions to make possible the establishment in a progressive manner of the operation of the fishing industry in the country, which shall culminate, in a maximum period of four years, in the obligation to process in the national territory all the product of fishing done in Ecuadoran territorial and insular waters.

Art. 5--Authorization is granted to the Executive Power, in contracts of industrial protection which it grants to the enterprises which may wish to establish factories, canning or refrigerating plants, etc., for the processing of the fish, to exonerate the said enterprises, up to a maximum period of ten years, from the payment of national or municipal duties on the importation of machinery, raw materials, and other articles destined for the establishment and operation of such factories; from the payment of the tax on the capital employed in the industry; from the payment of the national and municipal tax on the exportation of the product of such industry; as well as to grant also, and within the period indicated, the exemption of this last tax, which shall be effective once the new investment is verified by the Ministry of Economy.

Art. 6--The Executive, through the Ministries of Economy and National Defense, shall control these activities, and, through the Ministry of the Treasury, the distribution in favor of the Coastal Provinces and the Galapagos of the proceeds from the taxes and port charges and other fees which may be received through these activities. This distribution shall be made in the following manner:

a) For the general funds of the State, 3,500,000 scures, which is the Quantity budgeted in Section No. 23 for this purpose for the fiscal year of 1949.

b) All above this amount shall be distributed in equal percentages to the provinces which are listed below and the Galapagos.

Esmeraldas:--For the Municipality of its Provincial capital, which shall invest it in the port works of the said city.

Manabi:--To the Municipality of Manta for the construction of docks for the port.

Guayas:--

INFORMATION COPY

UNCLASSIFIED

Do not return to DC. This copy is for divisional files or other disposition in accordance with security regulations

UNCLASSIFIED

Encl. No. 1, January 18, 1949, American Embassy, Quito

- 3 -

Gusyas:--To the Municipality of Gusyas, which shall invest it in port works.

El Oro:--For the Municipal Council of Machala, which shall invest it in the repair and maintenance of the dock of Puerto Bolivar or other port work.

Los Rios:--To the Provincial Council, which shall invest it in road works of said province.

Galapagos:-- To the Ministry of National Defense, which shall invest it in storehouses for food and other works, of importance for the life of the colonists, especially living quarters.

For the year 1950 and for five years subsequent the income from fishing shall be divided in the following manner:

- 1.--40 percent for the Treasury.
- 2.--The remaining 60 percent shall be distributed in equal quotas among the territorial sections indicated in this article, the delivery being made to the entities which are mentioned in the text of this Decree.

Art. 7.--The enterprises which may be exclusively engaged in fishing and not in processing and which, in accordance with this Law, must contribute to the processing industry within the country shall be obligated to turn over totally or partially, two years after the initiation of their activities in Ecuador, the product of their fishing for the purposes of processing mentioned, at the prices on the international market. The Government shall fix the percentages in accordance with the necessities of the national industry. If there shall have been an excess, free disposition of the fish shall be granted.

Art. 8.--Authority is granted to the Executive Power to prohibit factory ships from operating freely in Ecuadoran territorial and insular waters.

Art. 9.--The Executive shall carry out a strict watch over the territorial and insular waters of the country in order to safeguard the national interests.

Art. 10.--The Decree shall be in force from the date of its publication in the Official Registry.

Given in

UNCLASSIFIED

INFORMATION COPY

Do not return to DC. This copy is for divisional files or other disposition in accordance with security regulations.

UNCLASSIFIED

Encl. No. 1, January 18, 1949, American Embassy, Quito

- 4 -

Given in Quito, in the Meeting Chamber of the
National Congress, the 6th of November, 1948.

The President of the Chamber of the Senate,

M. Sotomayor y Luna.

The President of the Chamber of Deputies,

Dr. Carlos Andrade Marin.

The Secretary of the Chamber of the Senate,

Dr. Rafael Galarza Arizaga.

The Secretary of the Chamber of Deputies,

Ernesto Espinosa Velasco.

Palace of Government, in Quito, the 16th of December, 1948.

SIGNED

The President of the Republic
Gale Plaza

The Minister of Economy
Clemente Yerovi Indaburu

The Minister of National Defense
Manuel Diaz Granados.

UNCLASSIFIED

INFORMATION COPY

Do not return to DC. This copy is for divisional files or other
disposition in accordance with security regulations

CONFIDENTIAL



CONFIDENTIAL

CONFIDENTIAL

Figure 3-13 (U) Inland Waterways

3-35

Return to Map Library
LOAN ONLY

D202-14
318202
copy 1

